

## Chapter 17

### DISCRIMINATION\*

- Art. I. In General, §§ 17-1—17-10  
Art. II. Housing, §§ 17-11—17-23

#### ARTICLE I. IN GENERAL

Secs. 17-1—17-10. Reserved.

#### ARTICLE II. HOUSING

##### Sec. 17-11. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Discriminatory housing practice* means an act that is unlawful under sections 17-12, 17-13 or 17-14 of this Code.
- (2) *Dwelling* means any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as a residence by one or more families or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.
- (3) *Family* includes a single individual.
- (4) *To rent* includes to lease, to sublease, to let, and otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(Code 1968, § 15½-11; Ord. No. 75-166, § 1, 2-12-75)

##### Sec. 17-12. Discrimination in the sale or rental of housing.

Except as exempted by section 17-15, it shall be unlawful for any person to:

- (1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for

the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, sex, religion or national origin.

- (2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion or national origin.
- (3) Make, print, publicize, or cause to be made, printed or published any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, sex, religion or national origin, or an intention to make any such preference, limitation or discrimination.
- (4) Represent to any person because of race, color, sex, religion or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (5) For profit or with the hope of expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion or national origin.
- (6) For profit or with the hope or expectation of profit to influence or attempt to influence, by any words, acts, or failure to act, any seller, purchaser, landlord or tenant of a dwelling so as to promote the maintenance of racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing.

(Code 1968, § 15½-12; Ord. No. 75-166, § 2, 2-12-75)

\*Cross reference—Anti-discrimination provisions in city contract, § 15-16 et seq.

### **Sec. 17-13. Discrimination in the financing of housing.**

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling; or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other financial assistance, because of:

- (1) The race, color, sex, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance; or
- (2) The race, color, sex, religion, or national origin of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

(Code 1968, § 15½-13; Ord. No. 75-166, § 3, 2-12-75)

### **Sec. 17-14. Discrimination in provision of brokerage services.**

It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or participation, on account of race, color, sex, religion or national origin.

(Code 1968, § 15½-14; Ord. No. 75-166, § 4, 2-12-75)

### **Sec. 17-15. Exemptions and exclusions.**

(a) There shall be exempted from the application of section 17-12 hereof all transactions involving:

- (1) The rental of units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one of such units as his residence.

(2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four (4) such rooms are offered.

(3) The sale or rental of any single house by a private individual who owns such house, provided that:

- a. The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman, or person; and
- b. The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of section 17-12(3) of this Code (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title); and
- c. The owner does not own more than three (3) single-family houses at the time of the sale; and
- d. The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time; and
- e. If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four-month period.

(b) Nothing in this article shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious association or society from limiting the

sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, or national origin.

(c) Nothing in this article shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose, provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(d) Nothing in this article shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

(Code 1968, § 15½-15; Ord. No. 75-166, § 5, 2-12-75)

#### **Sec. 17-16. Fair housing administrator.**

The mayor shall appoint and council shall confirm a fair housing administrator (hereinafter referred to as "administrator"), who shall have the responsibility for implementing this article. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction.

(Code 1968, § 15½-16; Ord. No. 75-166, § 6, 2-12-75)

**Cross reference**—Officers and employees generally, § 2-21 et seq.

#### **Sec. 17-17. Complaints generally.**

(a) Only the person who claims to have been injured by a discriminatory housing practice or who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereafter referred to as "charging party") may file a charge with the administrator. Such charge shall be in writing and shall identify the persons alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The administrator shall prepare charge

forms and furnish them without cost to any person, upon request.

(b) If at any time the administrator shall receive or discover credible evidence and shall have probable cause to believe that persons have committed or are committing a discriminatory housing practice as to which no charge has been filed, the administrator may prepare and file a charge upon his own motion and in his own name and such charge shall thereafter be treated in the same manner as a charge filed by a charging party.

(c) The administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as charges filed pursuant to subsection (a) of this section.

(d) All charges shall be filed within sixty (60) days following the occurrence of an alleged discriminatory housing practice. Not more than fifteen (15) days after the filing or referral of any charge, the administrator shall provide notice of the charge by furnishing a copy of such charge to the person or persons named therein (hereafter referred to as "respondent") who is or are alleged to have committed or to be committing a discriminatory housing practice. The respondent may file a written, subscribed and sworn answer to the charge within thirty (30) days of receipt of the copy of such charge.

(e) All charges shall be subscribed and sworn to before an officer authorized to administer oaths. (Code 1968, § 15½-17; Ord. No. 75-166, § 7, 2-12-75; Ord. No. 79-864, § 1, 5-23-79; Ord. No. 79-2307, § 1, 12-18-79)

#### **Sec. 17-18. Investigation of complaints.**

(a) Upon the filing or referral of a charge as herein provided, the administrator shall cause to be made a prompt and full investigation of the matter stated in the charge to determine whether or not there is probable cause to believe a discriminatory housing practice has occurred or is

occurring and to determine the facts of the alleged discriminatory housing practice.

(b) If the administrator determines that there is not probable cause to believe a discriminatory housing practice upon which a charge is based has occurred or is occurring, the administrator shall take no further action with respect to such charge, and shall notify the charging party accordingly.

(c) During or after the investigation, but subsequent to the mailing of the notice of the charge, the administrator shall, if it appears that a discriminatory housing practice has occurred or is occurring (and if a written conciliation agreement as provided hereinbelow is not then in effect), attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance by the respondent with the provisions of this article, agreement to which may be manifested by a written document executed and verified by the administrator and all other parties to such agreement. Such written conciliation agreement shall be in a form approved by the city attorney. Nothing said or done in the course of such informal endeavors may be made public by the administrator, by the charging party, by the respondent or by any other party to the proceedings without the written consent of all parties concerned.

(d) Upon completion of the investigation and informal endeavors at conciliation by the administrator, if the efforts of the administrator to secure voluntary compliance have been successful, the administrator shall take no further action with respect to the charge other than in accordance with the terms of any written conciliation agreement entered into by the administrator and all other parties to such agreement.

If the administrator shall receive or discover credible evidence and shall have probable cause to believe that any party to a written conciliation agreement has committed or is committing a discriminatory housing practice at any time during the period that such conciliation agreement is in effect, the administrator may prepare and file a charge, based upon such discriminatory housing practice, upon his own motion and in his own

name. The administrator may consider such discriminatory housing practice as sufficient grounds for belief that said charge cannot be successfully resolved by efforts to secure voluntary compliance.

(e) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within sixty (60) days of the filing of the charge with the administrator, if the efforts of the administrator to secure voluntary compliance have been unsuccessful, or if the administrator has determined that a charge cannot be successfully resolved in accordance with subsection (d) of this section, and if the administrator has probable cause to believe that a discriminatory housing practice has occurred or is occurring, the administrator shall recommend to the city attorney that such violation be prosecuted in the municipal court. With such recommendation, the administrator shall refer his entire file to the city attorney. The city attorney shall, within thirty (30) days after such referral, make a determination as to whether to proceed with prosecution of such charge in municipal court. If the city attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion subject to the provisions of Chapter 32A (speedy trial) of the Texas Code of Criminal Procedure. (Code 1968, § 15½-18; Ord. No. 75-166, § 8, 2-12-75; Ord. No. 79-864, § 2, 5-23-79; Ord. No. 79-2307, § 2, 12-18-79)

#### **Sec. 17-19. Article cumulative.**

This article is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue. (Code 1968, § 15½-19; Ord. No. 75-166, § 9, 2-12-75)

#### **Sec. 17-20. Unlawful intimidation.**

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this article, because he or they have exercised his or their rights under this article, or enjoyed the benefits of this article, or because he or they have made a charge, testified or assisted in any manner in any investigation, or in any proceeding hereunder or have made any report to the administrator. (Code 1968, § 15½-20; Ord. No. 75-166, § 10, 2-12-75)

**Sec. 17-21. Cooperation with secretary of housing and urban development.**

The administrator and the city attorney are authorized to cooperate with the secretary for housing and urban development and the U.S. Attorney General pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and may render such service to the secretary as they shall deem appropriate to further the policies of this article.

(Code 1968, § 15½-21; Ord. No. 75-166, § 11, 2-12-75)

**Sec. 17-22. Education and public information.**

In order to further the objectives of this article, the administrator may conduct educational and public information programs.

(Code 1968, § 15½-22; Ord. No. 75-166, § 12, 2-12-75)

**Sec. 17-23. Penalty.**

Any person violating any provision of this article shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each violation. Each day a violation continues from the date of the filing of a complaint in the municipal court of the city shall constitute a separate and distinct offense.

(Code 1968, § 15½-23; Ord. No. 75-166, § 13, 2-12-75; Ord. No. 79-864, § 3, 5-23-79; Ord. No. 92-1449, § 32, 11-4-92)

**Charter reference**—Penalty for ordinance violation, Art. II, § 12.

**Cross references**—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for time served in incarceration, § 35-6 et seq.